

§ 655.1260

(3) Where a petition for review is taken from an administrative law judge's decision and the Board either declines within 30 days to entertain the appeal, under § 655.1245(c), or the Board affirms the administrative law judge's determination; or

(4) Where the administrative law judge finds that there was no violation by a facility, and the Board, upon review, issues a decision under § 655.1245(h), holding that a violation was committed by a facility.

(b) The Attorney General, upon receipt of the Administrator's notice under paragraph (a) of this section, shall not approve petitions filed with respect to that employer under section 212(m) of the INA (8 U.S.C. 1182(m)) during a period of at least 12 months from the date of receipt of the Administrator's notification.

(c) ETA, upon receipt of the Administrator's notice under paragraph (a) of this section, shall suspend the employer's Attestation(s) under subparts L and M of this part, and shall not accept for filing any Attestation submitted by the employer under subparts L and M of this part, for a period of 12 months from the date of receipt of the Administrator's notification or for a longer period if one is specified by the Attorney General for visa petitions filed by that employer under section 212(m) of the INA.

§ 655.1260 Can Equal Access to Justice Act attorney fees be awarded?

A proceeding under subpart L or M of this part is not subject to the Equal Access to Justice Act, as amended, 5 U.S.C. 504. In such a proceeding, the administrative law judge shall have no authority to award attorney fees and/or other litigation expenses under the provisions of the Equal Access to Justice Act.

PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Subpart A—Purpose and Scope of Part 656

Sec.

656.1 Purpose and scope of part 656.

20 CFR Ch. V (4–1–08 Edition)

656.2 Description of the Immigration and Nationality Act and of the Department of Labor's role thereunder.

656.3 Definitions, for purposes of this part, of terms used in this part.

Subpart B—Occupational Labor Certification Determinations

656.5 Schedule A.

Subpart C—Labor Certification Process

656.10 General instructions.

656.11 Substitutions and modifications to applications.

656.12 Improper commerce and payment.

656.15 Applications for labor certification for *Schedule A* occupations.

656.16 Labor certification applications for shepherders.

656.17 Basic labor certification process.

656.18 Optional special recruitment and documentation procedures for college and university teachers.

656.19 Live-in household domestic service workers.

656.20 Audit procedures.

656.21 Supervised recruitment.

656.24 Labor certification determinations.

656.26 Board of Alien Labor Certification Appeals review of denials of labor certification.

656.27 Consideration by and decisions of the Board of Alien Labor Certification Appeals.

656.30 Validity and invalidation of labor certifications.

656.31 Labor certification applications involving fraud, willful misrepresentation, or violations of this part.

656.32 Revocation of approved labor certifications.

Subpart D—Determination of Prevailing Wage

656.40 Determination of prevailing wage for labor certification purposes.

656.41 Certifying Officer review of prevailing wage determinations.

AUTHORITY: 8 U.S.C. 1182(a)(5)(A), 1189(p)(1); section 122, Pub. L. 101-649, 109 Stat. 4978; and Title IV, Pub. L. 105-277, 112 Stat. 2681.

SOURCE: 69 FR 77386, Dec. 27, 2004, unless otherwise noted.

Subpart A—Purpose and Scope of Part 656

§ 656.1 Purpose and scope of part 656.

(a) Under section 212(a)(5)(A) of the Immigration and Nationality Act (INA or Act) (8 U.S.C. 1182(a)(5)(A)), certain aliens may not obtain immigrant visas